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Agenda item 4
Human rights situations that require the Council's attention

Djibouti,* Somalia:* draft resolution

38/... Situation of human rights in Eritrea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling resolution 91 and decisions 250/2002, 275/2003 and 428/12 of the African Commission on Human and Peoples' Rights,

Recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the code of conduct for special procedures mandate holders of the Council, both of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Recalling further its previous resolutions and all reports on the situation of human rights in Eritrea,

Welcoming the action taken by the Government of Eritrea to protect and promote the economic and social rights of its people, including through the early achievement of the Millennium Development Goals and its commitment to the Sustainable Development Goals,

Welcoming also the submission of the initial report of Eritrea to the African Commission on Human and Peoples' Rights at its sixty-second ordinary session,

Regretting the continued lack of cooperation with the Special Rapporteur on the situation of human rights in Eritrea, including the denial of access to the country,

Recalling the previous reports of the commission of inquiry on human rights in Eritrea, and of the Special Rapporteur, while continuing to express its deep concern at the findings that there are reasonable grounds to believe that crimes against humanity have been committed in Eritrea since 1991, including arbitrary arrest and incommunicado detention, enforced disappearance and torture, and reiterating that all perpetrators of such violations and abuses must be held accountable,

* State not a member of the Human Rights Council.

Emphasizing that every citizen has the right to take part in the conduct of public affairs of his or her country, directly or through freely chosen representatives, and expressing grave concern that national elections have not been held in Eritrea since 1993,

Welcoming the release by the Government of Eritrea, following mediation by the Government of Qatar, of four Djiboutian prisoners of war, on 18 March 2016, while recalling that 13 other Djiboutian prisoners of war are still detained in Eritrea,

Expressing grave concern at the policy of indefinite conscription into national/military service and at the human rights violations committed in the context of the national service,

Deeply concerned that the situation of human rights in Eritrea is a key driver behind the large numbers of Eritreans attempting to leave their country,

1. *Welcomes with appreciation* the work of the Special Rapporteur on the situation of human rights in Eritrea, stresses its deep concern at the ongoing grave violations and abuses and lack of progress outlined therein, including arbitrary detention, enforced disappearances, torture and sexual violence and forced labour, and urges the Government of Eritrea to take immediate and concrete steps to implement all her recommendations;

2. *Recalls* the report of the commission of inquiry on human rights in Eritrea[1] and the information that it has collected in support of future accountability;

3. *Welcomes* the enhanced interactive dialogue and the oral update from the Office of the United Nations High Commissioner for Human Rights on the situation of human rights in Eritrea at the thirty-seventh session of the Human Rights Council;

4. *Condemns in the strongest terms* the reported systematic, widespread and gross human rights violations that have been and are being committed by the Government of Eritrea in a climate of generalized impunity;

5. *Reiterates* that all those responsible for human rights violations and abuses must be held accountable;

6. *Also reiterates* its calls upon the Government of Eritrea:

(a) To end the use of torture and other cruel, inhumane and degrading treatment or punishment, including by ending the use of secret detention centres and the practice of incommunicado detention;

(b) To respect everyone's rights to freedom of expression, and to freedom of thought, conscience and religion or belief, and the right to freedom of peaceful assembly and association, to ensure free, fair and equal access to an independent and impartial court, and to improve prison conditions, including by prohibiting the use of underground cells, shipping containers and other inappropriate facilities to hold prisoners, ending the use of secret detention centres and the practice of irregular and incommunicado detention, allowing regular access to prisoners for relatives, legal representatives and independent monitoring mechanisms, and ensuring timely and regular unhindered access to medical care;

(c) To ensure that prompt and effective investigations are conducted into all allegations of human rights violations, including torture and ill-treatment, with a view to bringing perpetrators to justice;

(d) To stop and prevent shooting to wound or kill Eritrean citizens attempting to cross the border to flee the country;

(e) To release all those arbitrarily detained, including members of the G-15 reform group, journalists, religious figures and political prisoners, and ensure that all detainees are given a fair and transparent trial;

[1] A/HRC/32/47.

(f) To put an end to the indefinite nature of national/military service and the use of conscripts as forced labour, and ensure that all the rights of those serving national and military service are protected;

(g) To ensure the right to form and join political parties, and to guarantee the right and opportunity of all citizens to take part at all levels in the political process and to vote and be elected in free, fair and transparent democratic elections, guaranteeing free expression of the will of the people;

(h) To seek support to establish an independent, impartial and transparent judiciary, with a view to ensuring access to justice for all;

(i) To work to finalize and implement the Constitution of 1997 in consultation with all relevant stakeholders;

(j) To immediately stop the practice of demanding that Eritreans in the diaspora sign the B4/4.2 form (the so-called "regret form"), in which they accept responsibility for any crime, if committed, before leaving the country, in order to access consular services from Eritrean diplomatic missions;

(k) To stop the use of extortion, threats of violence, fraud and other illicit means of collecting taxes outside Eritrea from its nationals or other individuals of Eritrean origin, and to abstain from such practices;

(l) To allow independent media and independent civil society organizations to operate freely;

(m) To provide the Office of the High Commissioner with all relevant information on the identity, safety, well-being and whereabouts of all detained persons and persons missing in action, including members of the G-15, journalists, those detained in the aftermath of the attempted takeover on 21 January 2013 of the building of the Ministry of Information, and the 13 Djiboutian prisoners of war still detained;

(n) To allow unhindered access to the country by the Office of the High Commissioner and the mechanisms of the Human Rights Council, and to cooperate with all other international and regional human rights mechanisms;

7. *Requests* the Government of Eritrea to fully respect land rights in relation to traditional ownership and property rights, including those of foreign communities, and to bring to an end all arbitrary deprivation of property in violation of international law;

8. *Encourages* States to protect and pay due attention to the safety of those who have cooperated with the commission of inquiry and the Special Rapporteur, in particular to protect them from reprisals;

9. *Welcomes* the Special Rapporteur's preliminary contact with the African Union, and takes note of her recommendations for a regional accountability mechanism,[2] given the assertion by the commission of inquiry that neither a hybrid tribunal nor a truth commission would be a viable option in the current circumstances;

10. *Urges* Eritrea to make information available pertaining to the remaining Djiboutian prisoners of war missing since the clashes of 10 to 12 June 2008 so that those concerned may ascertain the presence and condition of Djiboutian prisoners of war;

11. *Encourages* business enterprises to carry out appropriate human rights due diligence in order to identify, prevent, mitigate and account for how they address their impact on human rights, including with respect to allegations of use of conscript labour;

12. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights in Eritrea, in accordance with Human Rights Council resolution 35/35 of 23 June 2017, for a period of one year;

[2] See A/HRC/38/50.

13. *Requests* the Special Rapporteur to submit and present a written report to the Human Rights Council at its forty-first session, and to engage in an interactive dialogue with the General Assembly on her report at its seventy-third session;

14. *Decides* to hold an enhanced interactive dialogue on the situation of human rights in Eritrea, at its fortieth session, with the participation of, inter alia, the Special Rapporteur, the Office of the High Commissioner, civil society and other relevant stakeholders;

15. *Invites* the Special Rapporteur to assess and report on the situation of human rights and the engagement and cooperation of the Government of Eritrea with the Human Rights Council and its mechanisms, as well as with the Office of the High Commissioner, and, where feasible, to develop benchmarks for progress and a time-bound action plan for their implementation;

16. *Calls upon* the Government of Eritrea to cooperate fully with the Special Rapporteur, including by granting access to the country, and to give due consideration to the recommendations contained in the reports of the Special Rapporteur;

17. *Requests* the Office of the High Commissioner to present an oral update to the Human Rights Council at its fortieth session on progress made in the cooperation between Eritrea and the Office, and on its impact on the situation of human rights in Eritrea;

18. *Encourages* the Government of Eritrea to consider the establishment of a presence of the Office of the High Commissioner in Eritrea with a holistic mandate to protect, promote and monitor human rights, with unhindered access;

19. *Urges* the international community to strengthen efforts and collaboration to ensure the protection of those fleeing from Eritrea, in particular unaccompanied children;

20. *Encourages* Member States to increase attention and, if feasible, resources to improve the situation of human rights in Eritrea by strengthening engagement with the Government of Eritrea;

21. *Reiterates* its strong encouragement to the African Union to follow up on the report and recommendations of the commission of inquiry[1] and the update on human rights in Eritrea by establishing an investigation, supported by the international community, with a view to examining and bringing to justice those responsible for crimes involving violations and abuses of human rights identified by the commission of inquiry, including any that may amount to a crime against humanity;

22. *Requests* the Secretary-General to provide the Special Rapporteur with all the information and resources necessary to fulfil her mandate;

23. *Decides* to remain seized of the matter.